

1 **CULTURAL AND COMMUNITY ENGAGEMENT AMENDMENTS**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Mike Winder**

5 Senate Sponsor: \_\_\_\_\_

6 

---

---

  
7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to the Department of Cultural and Community  
10 Engagement.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ clarifies the duties of the State Library Division (division) within the Department of  
15 Cultural and Community Engagement;
- 16 ▶ prohibits the division from providing for public access to certain publications  
17 subject to copyright protection unless the division obtains consent;
- 18 ▶ requires the Office of Legislative Research and General Counsel to submit  
19 legislative publications to the division for retention on the division's digital library;
- 20 ▶ excludes political subdivisions and state institutions of higher education from  
21 certain document submission requirements;
- 22 ▶ requires state agencies to submit a digital copy of certain publications to the  
23 division regardless of format for retention on the division's digital library;
- 24 ▶ repeals the division's depository library program;
- 25 ▶ modifies provisions related to public library internet safety; and
- 26 ▶ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **9-7-101**, as last amended by Laws of Utah 2019, Chapter 221

34 **9-7-201**, as renumbered and amended by Laws of Utah 1992, Chapter 241

35 **9-7-203**, as last amended by Laws of Utah 2017, Chapter 48

36 **9-7-205**, as last amended by Laws of Utah 2017, Chapter 48

37 **9-7-207**, as last amended by Laws of Utah 2006, Chapter 81

38 **9-7-208**, as repealed and reenacted by Laws of Utah 2006, Chapter 81

39 **9-7-213**, as last amended by Laws of Utah 2010, Chapter 378

40 **9-7-215**, as last amended by Laws of Utah 2017, Chapter 208

41 REPEALS:

42 **9-7-209**, as last amended by Laws of Utah 2006, Chapter 81

43 **9-7-210**, as last amended by Laws of Utah 1995, Chapter 32



45 *Be it enacted by the Legislature of the state of Utah:*

46 Section 1. Section **9-7-101** is amended to read:

47 **9-7-101. Definitions.**

48 As used in this chapter:

49 (1) "Board" means the State Library Board created in Section **9-7-204**.

50 (2) "Digital library" means the web-accessible digital library of state publications

51 created under Section **9-7-208**.

52 [~~2~~] (3) "Division" means the State Library Division.

53 (4) "Legislative office" means the Office of Legislative Research and General Counsel.

54 (5) "Legislative publication" means:

55 (a) the Utah Code;

56 (b) the Laws of Utah; and

57 (c) a biennial version of the Utah Constitution after amendments that passed during the

58 regular general election are incorporated into the Utah Constitution.

59           ~~[(3)]~~ (6) "Library board" means the library board of directors appointed locally as  
60 authorized by Section [9-7-402](#) or [9-7-502](#) and which exercises general policy authority for  
61 library services within a city or county of the state, regardless of the title by which the board is  
62 known locally.

63           ~~[(4)]~~ (7) "Physical format" means a transportable medium in which analog or digital  
64 information is published, such as print, microform, magnetic disk, or optical disk.

65           ~~[(5)]~~ (8) "Policy" means the public library online access policy adopted by a library  
66 board to meet the requirements of Section [9-7-215](#).

67           ~~[(6)]~~ (9) "Political subdivision" means a county, city, town, school district, public  
68 transit district, redevelopment agency, or special improvement or taxing district.

69           ~~[(7)]~~ (10) (a) "State agency" means:

70           ~~[(a)]~~ (i) the state; or

71           ~~[(b)]~~ (ii) an office, department, ~~[agency, authority, commission, board, institution,~~  
72 ~~hospital, college, university]~~ division, or other agency or instrumentality of the state.

73           ~~[(8) (a) "State publication" means a book, compilation, directory, document, contract or~~  
74 ~~grant report, hearing memorandum, journal, law, legislative bill, magazine, map, monograph,~~  
75 ~~order, ordinance, pamphlet, periodical, proceeding, public memorandum, resolution, register,~~  
76 ~~rule, report, statute, audiovisual material, electronic publication, micrographic form and tape or~~  
77 ~~disc recording regardless of format or method of reproduction, issued or published by a state~~  
78 ~~agency or political subdivision for distribution.]~~

79           ~~[(b) "State publication" does not include correspondence, internal confidential~~  
80 ~~publications, office memoranda, university press publications, or publications of the state~~  
81 ~~historical society.]~~

82           (b) "State agency" includes the legislative office.

83           (c) "State agency" does not include:

84           (i) a political subdivision; or

85           (ii) a state institution of higher education.

86           (11) "State institution of higher education" means an institution described in Section  
87 [53B-2-101](#) or any other university or college that is established and maintained by the state.

88           (12) (a) "State publication" means any information, regardless of format, that a state  
89 agency makes available to the public, as required by law.

90 (b) "State publication" includes a legislative publication.

91 (c) "State publication" does not include information that a political subdivision or state  
 92 institution of higher education makes available to the public.

93 Section 2. Section **9-7-201** is amended to read:

94 **9-7-201. State Library Division -- Creation -- Purpose.**

95 (1) There is created within the department the State Library Division under the  
 96 administration and general supervision of the executive director or the designee of the  
 97 executive director.

98 (2) The division shall be under the policy direction of the board.

99 (3) The division shall function as the library authority for the state and is responsible  
 100 for [~~general library services, extension services, the preservation, distribution and exchange of~~  
 101 ~~state publications, legislative reference, and other services considered proper for a state~~  
 102 ~~library.];~~

103 (a) general library services;

104 (b) mobile library services;

105 (c) providing for permanent public access to state publications; and

106 (d) other services considered proper for a state library.

107 Section 3. Section **9-7-203** is amended to read:

108 **9-7-203. Division duties.**

109 [~~The~~] (1) Subject to the requirements of this part, the division shall:

110 [~~(1)~~] (a) establish, operate, and maintain:

111 (i) a state publications collection[;];

112 (ii) a digital library of state publications[;]; and

113 (iii) a bibliographic control system[~~, and depositories as provided in this part~~];

114 [~~(2)~~] (b) cooperate with:

115 [~~(a)~~] (i) other state agencies to facilitate public access to government information  
 116 through electronic networks or other means;

117 [~~(b)~~] (ii) other state or national libraries or library agencies; and

118 [~~(c)~~] (iii) the federal government or agencies in accepting federal aid whether in the  
 119 form of funds or otherwise;

120 [~~(3)~~] (c) receive bequests, gifts, and endowments of money and deposit the funds with

121 the state treasurer to be placed in the State Library Donation Fund, which funds shall be held  
122 for the purpose, if any, specifically directed by the donor; and

123 ~~[(4)]~~ (d) receive bequests, gifts, and endowments of property to be held, used, or  
124 disposed of, as directed by the donor~~;~~];

125 (i) in accordance with the division's policies for collection development; and

126 (ii) with the approval of the Division of Finance.

127 (2) The division may not provide for public access to a state publication for which

128 access is limited by federal copyright law unless the state agency that produces the state

129 publication consents to the public access.

130 Section 4. Section **9-7-205** is amended to read:

131 **9-7-205. Duties of board and director.**

132 (1) The board shall:

133 (a) promote, develop, and organize a state library and make provisions for ~~[its]~~ the state  
134 library's housing;

135 (b) promote and develop library services throughout the state in cooperation with other  
136 state or municipal libraries, schools, or other agencies wherever practical;

137 (c) promote the establishment of district, regional, or multicounty libraries as  
138 conditions within particular areas of the state may require;

139 (d) supervise the books and materials of the state library and require the keeping of  
140 careful and complete records of the condition and affairs of the state library;

141 (e) establish policies for the administration of the division and for the control,  
142 distribution, and lending of books and materials to those libraries, institutions, groups, or  
143 individuals entitled to them under this chapter;

144 (f) serve as the agency of the state for the administration of state or federal funds that  
145 may be appropriated to further library development within the state;

146 (g) aid and provide general advisory assistance in the development of statewide school  
147 library service and encourage contractual and cooperative relations between school and public  
148 libraries;

149 (h) give assistance, advice, and counsel to all tax-supported libraries within the state  
150 and to all communities or persons proposing to establish a tax-supported library and conduct  
151 courses and institutes on the approved methods of operation, selection of books, or other

152 activities necessary to the proper administration of a library;

153 (i) furnish or contract for the furnishing of library or information service to state  
154 officials, state departments, or any groups that in the opinion of the director warrant the  
155 furnishing of those services, particularly through the facilities of traveling libraries to those  
156 parts of the state otherwise inadequately supplied by libraries;

157 (j) where sufficient need exists and if the director considers it advisable, establish and  
158 maintain special departments in the state library to provide services for the blind, visually  
159 impaired, persons with disabilities, and professional, occupational, and other groups;

160 (k) administer a [~~depository~~] state publications library program by collecting state  
161 publications, providing access to state publications through the digital library, and providing a  
162 bibliographic information system;

163 (l) require the collection of information and statistics necessary to the work of the state  
164 library and the distribution of findings and reports;

165 (m) make any report concerning the activities of the state library to the governor as the  
166 governor may require; and

167 (n) develop standards for public libraries.

168 (2) The director shall, under the policy direction of the board, carry out the  
169 responsibilities under Subsection (1).

170 Section 5. Section **9-7-207** is amended to read:

171 **9-7-207. Submission of state publications to the division.**

172 [~~(1)(a) Each state agency and political subdivision publishing a digital version of a  
173 state publication shall deposit a digital copy with the division.~~]

174 [~~(b) Each state agency and political subdivision shall deposit with the division copies  
175 of each state publication that it elects to publish in a physical format in the numbers specified  
176 by the state librarian.~~]

177 [~~(c) The division shall forward two copies of each state publication published in a  
178 physical format deposited with it by a state agency to the Library of Congress, one copy to the  
179 state archivist, at least one copy to each depository library, and retain two copies.~~]

180 [~~(2) Each state agency or political subdivision shall deposit with the division a digital  
181 copy of each audio and video publication or recording issued by it for bibliographic listing and  
182 retention in the digital library.~~]

183 ~~[(3) Each state agency or political subdivision shall deposit with the division copies of~~  
184 ~~audio and video publications or recordings issued by it in physical formats in the numbers~~  
185 ~~specified by the state librarian for bibliographic listing and retention in the state library~~  
186 ~~collection.]~~

187 ~~[(4) (a) The division shall publish or make available to the public through electronic~~  
188 ~~networks a list of state agency publications.]~~

189 ~~[(b) The list shall be published periodically and distributed to depository libraries and~~  
190 ~~the state archivist.]~~

191 ~~[(5) Materials the division considers not to be of major public interest will be listed;~~  
192 ~~but no copies will be required for deposit.]~~

193 (1) (a) A state agency shall submit to the division a digital copy of each state  
194 publication the state agency makes available to the public regardless of format for biographic  
195 listing and permanent retention in the digital library.

196 (b) A state agency may not remove a state publication that is posted to the state  
197 agency's public website until the state agency submits a digital copy of the state publication to  
198 the division under Subsection (1)(a).

199 (c) A state agency's submission of a state publication under Subsection (1)(a)  
200 constitutes the state agency's compliance with the requirement under Section [46-5-108](#) to  
201 ensure that the state publication is reasonably available for use by the public on a permanent  
202 basis.

203 (2) (a) In addition to the requirements of Subsection (1), a state agency that elects to  
204 publish a state publication in a physical format shall submit copies of the state publication to  
205 the division in the numbers specified by the state librarian.

206 (b) The division shall:

207 (i) forward one copy of each state publication described in Subsection (2)(a) to the  
208 state archivist; and

209 (ii) retain two copies of each state publication described in Subsection (2)(a) for the  
210 division's collection of state publications.

211 (3) (a) A political subdivision or state institution of higher education may submit to the  
212 division a digital copy of any information the political subdivision or state institution of higher  
213 education makes available to the public.

214 (b) With respect to information submitted to the division by political subdivisions and  
215 state institutions of higher education, the division may select the information the division  
216 considers appropriate for permanent public access in the digital library.

217 Section 6. Section **9-7-208** is amended to read:

218 **9-7-208. Digital library for permanent public access.**

219 (1) The division shall manage and maintain an online, web-accessible digital library for  
220 state publications submitted to the division by state agencies under Subsection 9-7-207(1).

221 (2) The division shall provide for permanent public access to ~~[the]~~ state publications in  
222 the digital library.

223 (3) The digital library shall be accessible by agency, author, title, subject, keyword, text  
224 search, and such other means as provided by the division.

225 ~~[(4)(a) Each state agency publishing a digital version of a state publication shall~~  
226 ~~deposit a digital copy of the publication with the division.]~~

227 ~~[(b) A state agency may not remove a state publication it posts to its public website~~  
228 ~~until a copy is deposited into the digital library for permanent public access.]~~

229 (4) The division shall make state publications in the digital library available for  
230 download.

231 Section 7. Section **9-7-213** is amended to read:

232 **9-7-213. Rulemaking.**

233 The division may make rules in accordance with Title 63G, Chapter 3, Utah  
234 Administrative Rulemaking Act, necessary to implement and administer the provisions of this  
235 chapter including:

236 (1) standards ~~[which shall be met by libraries to obtain and retain a designation as a~~  
237 ~~depository library]~~ for submitting state publications to the division under Section 9-7-207;

238 (2) the method by which grants are made to individual libraries, but not including  
239 appropriations made directly to any other agency or institution;

240 (3) standards for the certification of public librarians; and

241 (4) standards for the public library online access policy required in Section **9-7-215**.

242 Section 8. Section **9-7-215** is amended to read:

243 **9-7-215. Internet and online access policy required.**

244 (1) As used in this section:

- 245 (a) "Child pornography" is as defined in Section 76-5b-103.
- 246 (b) "Harmful to minors" is as defined in Section 76-10-1201.
- 247 (c) "Obscene" is as defined in 20 U.S.C. Sec. 9101.
- 248 (d) "Technology protection measure" means a technology that blocks or filters Internet  
249 access to visual depictions.
- 250 (2) State funds may not be provided to any public library that provides public access to  
251 the Internet unless the library:
- 252 (a) (i) has in place a policy of Internet safety for minors, including the operation of a  
253 technology protection measure:
- 254 (A) with respect to any computer or other device while connected to the Internet  
255 through a network provided by the library, including a wireless network; and
- 256 (B) that protects against access to visual depictions that are[: ] child pornography,  
257 harmful to minors, or obscene; and
- 258 [~~(F) child pornography;~~]  
259 [~~(H) harmful to minors; or~~]  
260 [~~(H) obscene; and~~]
- 261 (ii) is enforcing the operation of the technology protection measure described in  
262 Subsection (2)(a)(i) during any use by a minor of a computer or other device that is connected  
263 to the Internet through a network provided by the library, including a wireless network; and
- 264 (b) (i) has in place a policy of Internet safety, including the operation of a technology  
265 protection measure:
- 266 (A) with respect to any computer or other device while connected to the Internet  
267 through a network provided by the library, including a wireless network; and
- 268 (B) that protects against access to visual depictions that are[: ] child pornography,  
269 harmful to minors, or obscene; and
- 270 [~~(F) child pornography; or~~]  
271 [~~(H) obscene; and~~]
- 272 (ii) is enforcing the operation of the technology protection measure described in  
273 Subsection (2)(b)(i) during any use of a computer or other device that is connected to the  
274 Internet through a network provided by the library, including a wireless network.
- 275 (3) This section does not prohibit a public library from limiting Internet access or

276 otherwise protecting against materials other than the materials specified in this section.

277 (4) An administrator, supervisor, or other representative of a public library may disable  
278 a technology protection measure described in Subsection (2):

279 (a) at the request of a library patron who is not a minor; and

280 (b) to enable access for research or other lawful purposes.

281 **Section 9. Repealer.**

282 This bill repeals:

283 Section **9-7-209, Depository libraries.**

284 Section **9-7-210, Micrographics and other copying and transmission techniques.**